IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No. 1651 of 2000 (O&M)
Date of decision: 30.11.2017

Meera Bhardwaj and others

...Appellants

Vs.

Ram Chander and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Ved Parkash, Advocate for the appellants.

Ms. Vandana Malhotra, Advocate for the respondents.

RAJIV NARAIN RAINA, J. (ORAL)

1. This is a claimant's appeal for enhancement of compensation in a death case. K.K. Bhardwaj was involved in a road accident on 30.06.1996 in which he sustained fatal injuries leading to death. He left behind 5 dependents. The Tribunal assessed his income as ₹ 7, 850/- per month. Given the age of the deceased, the multiplier of 16 was applied. Given 5 dependents, a deduction of 1/3rd was inappropriate while it should have been 1/4th of the income which comes to ₹3,140/- per month. Loss of dependency would work out to ₹7,850/- + ₹3,140/- = ₹10, 990/-. This figure has to be multiplied by 12 and then by adopting multiplier 16 with 3/4th dependency then in this manner, the total loss of income and compensation works out to ₹15,82,560/-. The claimant would be entitled to ₹70,000/- in view of the National Insurance Company Limited Vs. Pranay Sethi and others in Civil Appeal No. decided on 30.10.2017 to include amounts towards loss of

consortium, funeral expenses and loss to estate making a grand total to ₹16,52,560/-. The amount awarded by the Tribunal is ₹9,60,000/- which has to be deducted from the compensation worked out as above leaving a balance amount of ₹6,92,560/- in favour of of the claimant which is due and payable.

2. Ms. Vandana Malhotra, for the insurer seriously joins issue in award of rate of interest @ 12% by the Tribunal and submits that it should be scaled down to 6% in view of recent dicta in cases coming up regularly before the different Benches of this Court in subject field, citing authority to maintain that 6% interest is appropriate as awarded in these three judgments; <u>Lal Singh Marabi Vs. National Insurance Company Limited and others,</u> 2017 (2) RCR (Civil) 234; <u>Gian Chand and others Vs. Gurlabh Singh and others,</u> 2016 (1) RCR (Civil) 873 and Mithusinh Pannasinh Chauhan Vs. Gujarat State Road Transport Corporation and another, 2015 (4) RCR (Civil) 602.

3. That may be so, but from a large number of authorities of the Supreme Court, this Court and other High Courts, rate of interest appears not to be standardized by any authoritative pronouncement. The best index to apply rate of interest would be the rate of interest on fixed deposits in nationalized banks which presently is about 7.5% per annum. Looking at the large number of decisions of this Court awarding 7.5% the rate of interest is reduced accordingly. It may be noticed that liability to pay the compensation by the insurance company was not a

disputed issue in this appeal.

3. In conclusion, the appeal is partly allowed. The impugned award passed by the Motor Accident Claims Tribunal, Gurgaon is modified. The enhanced compensation is ₹6, 92, 560/- to be paid from the date of the claim application till realization and which amount will carry 7.5% rate of interest. The amount be calculated and deposited by the Insurance Company before the Executing Court/Tribunal within 8 weeks from the date of the receipt of the certified copy of the order. The amount be disbursed to the claimant by the Tribunal without delay. In case of default of payment/deposit, the amount in default will carry 12% interest.

[RAJIV NARAIN RAINA]
JUDGE

30.11.2017
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Whether speaking/reasoned: ***Yes***
Whether Reportable: ***No***